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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/765,843	01/19/2001	John J. Emerick JR.	7440/4	9252

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EXAMINER
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JACKSON, JAKIEDA R

ART UNIT	PAPER NUMBER
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2655

DATE MAILED: 03/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/765,843	<b>Applicant(s)</b> EMERICK, JOHN J.	
	<b>Examiner</b> Jakieda R Jackson	<b>Art Unit</b> 2655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 12-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 12-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Amendment***

1. In response to the Office Action mailed July 12, 2004, applicant submitted an amendment filed on October 12, 2004, in which the applicant requested reconsideration with respect to **claim 1**.

### ***Response to Arguments***

2. Regarding claim 1, applicant argues that the teaching or suggestion to modify Van Ryzin in view of Fukuda must be found in the prior art Van Ryzin and Fukuda, not in the disclosure of the present application. However, the motivation to combine can, in fact, be found in Fukuda (column 21, lines 1-58 and column 23, lines 18-32). Fukuda teaches obtaining audio sounds from an external source enables music to be downloaded while protecting the copyright and preventing deterioration of the sound quality.

Applicant also argues that Van Ryzin teaches away from the alarm sound being coded in an audio data file located in the TV broadcast signal from the TV tuner by teaching a simple and inexpensive modification of an alarm clock involving a precise listing of holiday music stored in lookup tables of a memory. However, the examiner disagrees. The examiner agrees that Van Ryzin does not specifically receive the alarm sounds from the external source and decodes the received data signal to obtain the audio data file. The Fukuda reference, however, cures the deficiency.

The applicant also argues that by modifying Van Ryzin in view of Fukuda would increase the cost and complexity of the DSP, microcontroller, memory and sound circuit

of Van Ryzin in violation of the simple and inexpensive concept of Van Ryzin. However, the Van Ryzin reference simply states that by automatically setting the date and time uses simple and inexpensive modification of existing alarm clocks. Besides, it is well known that any addition added to the construction could increase the cost, but the Fukuda reference does not teach that the modifications would.

Therefore, applicant's arguments filed October 12, 2004 have been fully considered but they are not persuasive.

### ***Drawings***

3. The drawings were received on October 12, 2004. These drawings are acceptable.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 1-5, 14 and 17** are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Ryzin (U.S Patent No. 5,991,240), in view of Fukuda (U.S. Patent No. 6,469,239).

Regarding **claim 1**, Van Ryzin discloses an alarm clock with automatic time/date setting, hereinafter referenced as an alarm clock. Van Ryzin's alarm clock is in communication with an external source (television broadcast station; column 1, lines 6-9) of at least one audio data file (sound circuit; figure, element 22), the alarm clock (10) comprising:

a memory (figure, element 20 or sound circuit; element 55) for storing the audio data file (column 1, line 66 or column 3, lines 34);

a programmable controller (figure, element 16) for coordinating the transfer of the audio data file (20) from the digital signal processor (14) to the memory (20), and for activating an alarm sound (activate an alarm trigger; column 1, lines 58-64) coded in the audio data file ("tunes stored in the memory...", column 3, lines 35) in response to the programmable controller (16) determining that the alarm sound is required to fulfill one or more programming instructions executed by the programmable controller (column 1, line 67 – column 2, line 4; column 2, lines 23-29; column 3, lines 23-25); and

a speaker (inherent to the device because it generates sound corresponding to the amplified signal) for playing the alarm sound (column 3, lines 30-33), but lacks specifically receiving the alarm sounds from the external source and decoding the received data signal to obtain the audio data file.

Fukuda discloses receiving a data signal from the external source (figure 2, element 19 with column 9, lines 57-65) and for decoding (figure 2, element 21) the received data signal to obtain the audio data file (column 9, line 66 – column 10, line 19). The use of a DSP in figures 2, 3 or 4 is disclosed which will prevent deterioration of

the quality of music data/original sound data (column 21, lines 27-45), similar to the DSP in Van Ryzin that is used in processing transmitted information signals.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Van Ryzin's invention such that it obtains audio sounds from an external source, to enable music to be downloaded to a medium, while protecting the copyright and preventing deterioration of the sound quality, thereby providing vastly greater selectivity of sound data.

Regarding **claim 2**, Van Ryzin discloses a display (figure, element 18) for displaying information received from the programmable controller regarding the programming instructions (column 2, lines 28-29 and 54-56).

Regarding **claim 3**, Van Ryzin discloses an alarm clock comprising at least one manual input control (holiday/weekend key) that is used to provide an input of information to the programmable controller to supplement the programming instructions of the programmable controller (column 3, lines 9-14).

Regarding **claim 4**, Van Ryzin discloses an audio playback device (sound circuit; figure, element 22) wherein the device can be accessed by the programmable controller as an alternate source of an audio data file for use in the programmable controller fulfilling the programming instructions (column 3, lines 30-43).

Regarding **claim 5**, Van Ryzin discloses an alarm clock wherein the audio playback device is at least one of a cassette tape player, a CD-ROM player, a radio (column 1, lines 10-15), a computer disk drive, a video cassette player, or a video digital drive.

Regarding **claim 14**, Van Ryzin discloses an alarm clock wherein the digital signal processor (figure, element 14) decodes the received signal to obtain a set of transmitted programming instructions that are used to supplement the programming instructions of the programmable controller (column 1, lines 49-53 and column 2, lines 51-56).

Regarding **claim 17**, Van Ryzin discloses that the time and date on the alarm clock is synchronized with the time and date on the external data source (column 1, lines 6-9 and column 2, lines 30-32).

6. **Claims 6-10, 12-13 and 15-16** are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Ryzin in view Fukuda, as applied to claims 1-5, 14 and 17 above, in further view of Herold (U.S. Patent No. 5,832,067).

Regarding **claim 6**, Van Ryzin discloses an alarm clock but lacks disclosing that the alarm clock comprises a video display, a memory for storing a video data file and a programmable controller for displaying the video image. Herold discloses an alarm clock further comprising:

a video display (figure 5, element 274; column 6, lines 18-19)

a memory for storing a video data file (figure 5, element 272; column 6, lines 1-5); and

a programmable controller (microprocessor; figure 5, element 254) for displaying the encoded video image on the display when the programmable controller determines

that the display of the video image is required to fulfill the programming instructions (column 6, lines 5-14).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Van Ryzin and Fukuda such that is disclosed a video display, a memory for storing a video data file and a programmable controller for displaying the video image in order to be able to read text or other data downloaded once awakened.

Regarding **claim 7**, Van Ryzin discloses an alarm clock further comprising:

a means of connection to an external source of at least one video data file ("a tuner for receiving broadcast video signal");

a programmable controller (figure, element 16) for coordinating the transfer of the video data file from the digital signal processor to the memory (column 3, lines 22-29) but lacks disclosing a digital signal processor for receiving a data signal from the external source and for decoding the received data signal to obtain the video data file. Herold discloses a digital signal processor (sensing circuit; figures 1 and 5; element 52 and 252; column 4, lines 1-3 with column 6, lines 14-17) for receiving a data signal from the external source and for decoding the received data to obtain the video data file (column 6, lines 18-27).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Van Ryzin and Fukuda such that it disclosed a digital signal processor for receiving a data signal from the external source



and for decoding the received data signal to obtain the video data file in order to be able to read text or other data downloaded once awakened.

Regarding **claim 8**, Van Ryzin discloses an alarm clock but lacks disclosing that the memory can be used to store at least two data files. Herold discloses that the memory can be used to store two data files that are one of audio and video (column 2, lines 5-19 "remote server stores a plurality of stored messages").

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Van Ryzin and Fukuda such that it discloses memory that can be used to store audio and video data files to play sound related to the text that may be displayed in order to allow the flexibility to preselect messages to be played at a preselected time.

Regarding **claim 9**, Van Ryzin discloses an alarm clock but lacks that the alarm clock is connected to an external source of at least one audio data file by a digital signal processor receiving signals from a connection. Herold discloses an alarm clock wherein the alarm clock is connected to the external source of at least one audio data file by a digital signal processor receiving signals from at least one of an internet connection, a local computer network connection (server; figure 1, element 24; column 3, lines 8-14), an independent data drive, an independent audio playback device, or an independent computer.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Van Ryzin and Fukuda such

that it is connected to an external source to allow flexibility and customization to the system for the user to download files and adjust settings in different ways.

Regarding **claim 10**, Van Ryzin discloses an alarm clock but lacks that the memory is separate from the physical alarm clock. Herold discloses an alarm clock wherein the memory for storing the audio data file (figure 5, element 272) is located separate from the physical alarm clock unit (figure 5, element 250) and is accessed by the alarm clock by a data connection (figure 5).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Van Ryzin and Fukuda such that the memory is separate from the physical alarm clock to allow more storage for storing audio data file and other pertinent information needed to download programming instructions, sound files etc.

Regarding **claim 12**, Van Ryzin discloses an alarm clock but lacks that the alarm clock is connected to an external source. Herold discloses an alarm clock wherein the data connection connects the alarm clock to at least one of an external computer, an external data storage device, an external computer drive unit, a computer server that is part of a local computer network (server; figure 1, element 24; column 3, lines 8-14), or a computer server that is part of the world wide web internet.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Van Ryzin and Fukuda such that it is connected to an external source to allow flexibility and customization to the system, which allows the user to download files and adjust settings in different ways.

Regarding **claim 13**, Van Ryzin discloses an alarm clock but lacks that is connected by a direct or wireless connection. Herold discloses an alarm clock wherein the speaker for playing the alarm sound is connected to the alarm clock by one of a direct, wired connection to a speaker (figure 2), a wireless radio connection to a speaker, a wireless infrared connection to a speaker, or a means of transmitting data to a speaker that includes transmitting data in a wireless manner.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Van Ryzin and Fukuda such that the speaker for playing the alarm sound is connected to the alarm clock by one of a direct, wired connection to a speaker to allow a wire to be dedicated to a particular system and to be directly transmitted from the audio source to the speaker, in order to avoid signal errors due to noise.

Regarding **claim 15**, Van Ryzin discloses an alarm clock but lacks that the alarm clock received signals is from an external source. Van Ryzin discloses an alarm clock wherein the received signal is received from one of an internet connection, a local computer network connection (server; figure 1, element 24; column 3, lines 8-14), an independent data drive, an independent audio playback device, or an independent computer.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Van Ryzin and Fukuda such that the received signal is from external source to allow flexibility and customization to

the system, which allows the user to download files and adjust settings in different ways.

Regarding **claim 16**, Van Ryzin discloses an alarm clock but lacks the programmable controller sending data to the digital signal processor and the digital signal processor transmitting a signal to an external receiving device. Herold discloses an alarm clock wherein the programmable controller (figure 1, element 54) sends a data signal to the digital signal processor (mode select interface; figure 1, element 62), and the digital signal processor transmits a signal to an external receiving device (server; column 4, lines 11-27).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Van Ryzin and Fukuda such that the programmable controller sends data to the digital signal processor and the digital signal processor transmits a signal to an external receiving device to allow a user to preselected messages to be played at a preselected time.

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the


shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jakieda R Jackson whose telephone number is 703.305.5593. The examiner can normally be reached on Monday through Friday from 7:30 a.m. to 5:00p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris To can be reached on 703. 305.4827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JRJ  
February 22, 2005

  
David Ometz  
Primary Examiner